

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

JOHN C. PONTE, and GREENWICH  
BUSINESS CAPITAL, formerly known as  
PONTE INVESTMENTS, LLC

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION, and INDEPENDENCE  
BANK,

Defendants.

Case No. 1:23-cv-00018-MSM-LDA

**DECLARATION OF LORI KOHLENBERG**

I, Lori Kohlenberg, do hereby declare as follows:

1. I am employed in the Division of Risk Management Supervision of the Federal Deposit Insurance Corporation (“FDIC”). I am currently assigned to the Boston Area Office, with responsibility for the investigation into Independence Bank (the “Bank”) and its institution affiliated parties (“IAPs”). I submit this Declaration in support of the FDIC’s petition to enforce an administrative subpoena plaintiff John C. Ponte (“Ponte”). FDIC Enforcement Counsel issued the subpoena to Ponte in connection with the FDIC’s investigation of the Bank and its IAPs.

2. During the investigation, I have been personally involved in the review and analysis of Bank records, audit work papers, and other investigative tasks. I make this Declaration based on personal knowledge and my review of records and other information gathered during the FDIC’s investigation.

3. I received a Bachelor of Science from Fairfield University, Fairfield, CT. I began working at the FDIC in August 1993 and received my commission as a Bank Examiner in May 1997. My responsibilities include leading and participating in bank examinations, including the review and analysis of financial and loan documents.

4. This matter arises out of allegations of misconduct concerning Ponte's origination of Small Business Administration 7a loans ("SBA 7a Loans") for the Bank. SBA 7a Loans issued in amounts up to \$150,000 come with an SBA guarantee of a portion of the loan amount.

5. Although not a Bank employee, Ponte, through his wholly-owned company Ponte Investments LLC ("Ponte Investments"), served as the Bank's primary loan referral/broker source of SBA 7a Loans. From 2017 through 2019, Ponte and Ponte Investments referred approximately 1,700 SBA 7a Loans for the Bank, with around \$239 million in total loan proceeds. Ponte participated in the conduct of the affairs of the Bank by serving as its largest SBA loan referral agent from 2017 to 2019.

6. Ponte, though Ponte Investments, and the Bank both charged Packaging and Other Service fees to SBA borrowers. Ponte's fees often exceeded the SBA's referral fee limit by over \$1,500 per borrower. Further, Ponte often provided bridge financing to SBA borrowers, arranging, where possible, to have the bridge loans repaid from the proceeds of the SBA 7a Loans, implicating 13 C.F.R. § 120.140. Information about these bridge loans was kept from the Bank's loan files, deceiving the Bank's underwriters; many of the SBA 7a Loans Ponte originated would not have qualified for the program and the SBA guarantee. Approximately 44% of the SBA Loans with concealed bridge loans defaulted, leading to significant loss to both the Bank and the SBA. The SBA, due to mounting losses, ultimately terminated the Bank's ability to make SBA-guaranteed

loans. Ponte and Ponte Investments ceased to refer SBA Loans to the Bank in the latter half of 2019.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 19, 2023

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Lori Kohlenberg